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12 **UNITED STATES BANKRUPTCY COURT**
13 **EASTERN DISTRICT OF CALIFORNIA**
14 **SACRAMENTO DIVISION**

15 In re

16 CALIFORNIA INDEPENDENT
17 PETROLEUM ASSOCIATION,

18 Debtor and Debtor in Possession.

Case No.: 21-23169 B-11

DCN SK-6

Chapter 11-Subchapter V

Hearing:

Date: [TBD: Motion to Shorten Time Filed]

Time:

Ctrm.: Dept. R

19 **MOTION FOR (I) RELIEF FROM THE AUTOMATIC STAY TO FILE APPEAL;
20 AND (II) WAIVER OF THE 14-DAY STAY OF FRBP 4001(a)(3)**

21 TO THE HONORABLE CHRISTOPHER D. JAIME, UNITED STATES BANKRUPTCY
22 JUDGE, THE UNITED STATES TRUSTEE, SUB-V TRUSTEE, DEBTOR'S CREDITORS AND
23 PARTIES IN INTEREST, AND THEIR COUNSEL OF RECORD, IF ANY:

24 Pursuant to 11 U.S.C. § 362(d)(1), the CALIFORNIA INDEPENDENT PETROLEUM
25 ASSOCIATION, the debtor and debtor in possession in the above-captioned case ("Debtor"),
26 hereby moves this Court for relief from the automatic stay created by 11 U.S.C. § 362(a) to permit
27 Debtor to file a notice of appeal and take other actions in furtherance of such appeal with respect
28 the attorneys' fee judgment entered against Debtor in California state court (the "Attorneys' Fee
Award") under California's Anti-SLAPP statute. Relief from stay is requested solely for this

1 purpose and no other.

2 Debtor believes that the basis for awarding such an egregious amount is baseless and
3 erroneous under applicable law, and thus seeks to appeal the amount of the Attorneys' Fee Award.
4 Given that the Attorneys' Fee Award is the largest unsecured claim against Debtor, the outcome of
5 the Appeal will have a significant impact on the expected recoveries of other unsecured creditors in
6 this case.

7 As more fully set forth in the "*Memorandum of Points and Authorities in Support of Motion*
8 *for (i) Relief from the Automatic Stay to File Appeal; and (ii) Waiver of the 14-Day Stay of FRBP*
9 *4001(a)(3)*" (the "P&A Memorandum") being filed concurrently herewith, Debtor believes that
10 relief from the automatic stay is not necessary where, as here, the appeal that Debtor seeks to pursue
11 is not part of an action brought against Debtor, but rather is a continuation of a proceeding brought
12 by Debtor. See, e.g., Parker v. Bain, 68 F.3d 1131 (9th Cir. 1995). Here, the appeal of the Attorneys'
13 Fee Award is a continuation of, and arises on account of, Debtor's cross-complaint (the "Cross-
14 Complaint") filed against Creditors Youth for Environmental Justice, South Central Youth
15 Leadership Coalition, Center for Biological Diversity and the City of Los Angeles (collectively, the
16 "Cross-Defendants"). A more detailed procedural history of the Cross-Complaint and the related
17 litigation among the Cross-Defendants entitled *Youth for Environmental Justice, South Central*
18 *Youth Leadership Coalition, and Center for Biological Diversity v. City of Los Angeles, et al.*, Case
19 No. BC 600378 (the "State Court Action"), in the Superior Court of the State of California, County
20 of Los Angeles (the "State Court"), is set forth in the P&A Memorandum.

21 However, out of an abundance of caution, and in light of the lengthy and complex litigation
22 proceedings in the State Court Action, to the extent that relief from stay is needed, this Motion seeks
23 such relief on the grounds that "cause" exists to terminate the stay under 11 U.S.C. § 362(d). As
24 discussed in greater detail in the P&A Memorandum, relief from stay to allow Debtor to appeal the
25 Attorneys' Fee Award is warranted here because, among other reasons:

26 (i) Such appeal involves interpretation and application of the scope of the attorneys'
27 fees that can be awarded to a prevailing party under the California Anti-SLAPP
28 statute, and as such involves issues of state law.

- 1 (ii) The complexity of the issues and progress of the State Court Action is beyond the
2 trial court stage.
- 3 (iii) Lifting the stay will advance judicial economy and the expeditious and economical
4 resolution of the Attorneys' Fee Award.
- 5 (iv) Debtor has an interest in determining the extent of the claim against the estate that
6 would undoubtedly affect the feasibility and duration of the Debtor's plan of
7 reorganization. Debtor is prepared to move forward and granting relief from stay
8 will preserve the Debtor's right to do so.
- 9 (v) Granting relief from the stay to file an appeal also will not prejudice the Cross-
10 Defendants (who are well acquainted with the State Court Action) or other creditors.
11 On the other hand, not granting such relief will severely prejudice Debtor, whose
12 deadline to file an appeal is November 4, 2021. Failure to file an appeal by that
13 deadline may result in Debtor being bound by the Attorneys' Fee Award, to the
14 detriment of the estate and its other unsecured creditors.

15 For these reasons, and the additional arguments set forth in the P&A Memorandum, cause
16 exists to grant the relief requested by this Motion.

17 Debtor further requests that the 14-day stay prescribed by Federal Rule of Bankruptcy
18 Procedure 4001(a)(3) be waived.

19 In further support of this Motion, Debtor submits concurrently herewith the Declaration of
20 Jeffrey Dintzer. The statutory predicates for the relief sought hereunder are 11 U.S.C. §§ 105 and
21 362(d)(1), the Federal Rule of Bankruptcy Procedure 4001, and Local Bankruptcy Rule 4001-1.

22
23 DATED: October 22, 2021

SKLAR KIRSH, LLP

24
25 By: /s/ Ian S. Landsberg

26 Ian S. Landsberg
27 Attorneys for Debtor California Independent
28 Petroleum Association